

California Regional Water Quality Control Board  
North Coast Region

Administrative Civil Liability Order No. R1-2007-0021

For

Violation of Waste Discharge Requirements  
Order No. R1-2004-0013  
NPDES No. CA0024449

In the Matter of the  
City of Eureka  
Elk River Wastewater Treatment Facility  
WDID No. 1B82151OHUM

Humboldt County

The California Regional Water Quality Control Board, North Coast Region (hereinafter Regional Water Board), having received from the City of Eureka (hereinafter Discharger) a waiver of the right to a hearing for violations of Water Code 13385(a) caused by sewer system overflows (SSOs) and failure to meet prohibitions contained in Order No. R1-2004-0013; and having received the Discharger's request for the opportunity to implement a project in lieu of the penalty prescribed, finds the following:

1. The Discharger owns and operates the Elk River Wastewater Treatment Facility (WWTF). The WWTF serves both the Discharger and the surrounding unincorporated areas within the Humboldt Community Services District (HCSD). The WWTF discharges secondary treated domestic wastewater to Humboldt Bay in a manner that is equivalent to an outfall to the Pacific Ocean. Associated with the WWTF is an extensive sanitary sewer system consisting of 125 miles of sewer mains, 9,500 service laterals, 17 lift stations, 3 pump stations, interceptor lines, collection lines and manholes. Sewage lateral lines connected to the public sewer serving buildings on private property are not within the jurisdiction of the Discharger and are the responsibility of the land owner.
2. The Regional Water Board adopted Order No. R1-2004-0013, Waste Discharge Requirements, for the Discharger on March 24, 2004. The Order also serves as a National Pollutant Discharge Elimination System (NPDES) Permit No. CA0024449.
3. Discharge Prohibition A.1 contained in Order No. R1-2004-0013 states that: "The discharge of waste to Humboldt Bay is prohibited unless it is done in such a manner to assure that all wastewater is conveyed to the mouth of the

Bay and dispersed in the Pacific Ocean during periods of ebb tide.”  
Discharge Prohibition A.5 states: “The discharge of untreated or partially treated waste from anywhere within the collection, treatment, or disposal system is prohibited”.

4. During the period between October 1, 2004 and March 31, 2006, the Discharger experienced 29 SSOs. Seven of the 29 SSOs were from private homeowner systems and not within the jurisdiction of the City. Of the remaining 22 SSOs, 15 resulted in discharges to receiving waters in violation of Waste Discharge Requirements. All sewage spills were reported to the Regional Water Board in a timely manner. Of the 29 SSOs, 11 were cleaned up and 7 were less than 1000 gallons. The remaining 11 were significant discharges to surface waters with a potential to seriously impact beneficial uses. The significant spills ranged in volume from 1123 gallons to in excess of 200,000 gallons. With the exception of two spills, one caused by a power outage and the other by a pump controller failure at the “O” Street lift station, all the significant spills were the result of inflow and infiltration during rain storms.

Seven of the SSOs occurred at the O Street Pump Station. Four of the seven SSOs were significant and were the result of inflow and infiltration during storm periods. The proposed project, which has been developed as part of the settlement, addresses the issue of overflows from the O Street Pump Station and is described in Finding 6 below.

5. On August 22, 2006, the Executive Officer issued Administrative Civil Liability Complaint No. R1-2006-0091 assessing a civil liability penalty of \$100,000 for violations of prohibitions described in Finding 4 above. The Discharger requested to pay the sum of \$42,500 to the State Water Pollution Cleanup and Abatement Account (CAA) and spend the remaining sum of \$57,500 on a project. The Discharger paid \$42,500 into the CAA on March 5, 2007.
6. The proposed project will divert waste flows from about 110 single family dwellings from the O Street Pump Station to the Golf Course Lift Station. This will require the construction of about 650 lineal feet of sewer line and improvements to the Golf Course Lift Station to handle the additional flows. The upgrades will include converting the dry-well to a wet-well and installing new submersible pumps and a backup generator with an automatic transfer switch in case of power failures. As of February 21, 2007:

The pumps have been purchased and are on site;

The control equipment has been purchased;

The emergency generator has been purchased and;

The construction contract was advertised for public bidding on January 14, 2007 and bids were opened on February 14, 2007.

The construction contract was awarded by the City Council on February 20, 2007. The project will cost in excess of \$200,000 and be completed by August 30, 2007.

7. A duly noticed public hearing on this matter was held before the Regional Water Board on April 26, 2007 at the Regional Water Board office in Santa Rosa, California. The documents for the agenda item were provided to the Discharger and made available to the public prior to the hearing. The Discharger and the public were given the opportunity to testify and present evidence regarding the proposed settlement.
8. At the hearing, the Regional Water Board considered whether to affirm, reject or modify the Administrative Civil Liability Order and any other action appropriate as a result of the hearing.
9. The issuance of this Order is an enforcement action to protect the environment, and is therefore exempt from the provisions of the California Environmental Quality Act (Pub. Resources Code, §§ 21000-21177) pursuant to title 14, California Code of Regulations, sections 15308 and 15321, subdivision (a)(2).
10. Any person affected by this action of the Regional Water Board may petition the State Water Board to review the action in accordance with section 13320 of the Water Code and title 23, California Code of Regulations, section 2050. The petition must be received by the State Water Board within thirty days of the date of this Order. Copies of the law and regulations applicable to filing petitions will be provided upon request.

THEREFORE, IT IS HEREBY ORDERED pursuant to Water Code section 13385 that:

1. The Discharger shall be assessed a total civil liability of \$100,000. The Discharger has paid the sum of \$42,500 to the CAA. The Discharger will spend the remaining sum of \$57,500 toward the completion of a project. Upon the Executive Officer's determination that the project, as described in Finding 6 of this Order, has been satisfactorily completed, the \$57,500 suspended liability will be permanently suspended. The Discharger shall submit progress reports describing the planning and construction of the project according to the following time schedule:

TASK	DUE DATE
Submit a report describing planning and construction progress associated with the project.	April 30, 2007
Submit a report describing progress of construction activities associated with the project.	June 30, 2007
Submit a report describing progress of construction activities associated with the project.	August 31, 2007
The project should be complete. Submit a final report certifying completion of the project and an overall evaluation of the project and its ability to meet the stated goal of reducing the incidents of Sewer System Overflow at the "O" Street Pump Station. Include a post project accounting of expenditures with proof of payment.	October 31, 2007

2. If, given written justification from the Discharger, the Executive Officer determines that a delay in the project implementation schedule was beyond the reasonable control of the Discharger, the Executive Officer may revise the implementation schedule as appropriate. Written justification must be received by the Executive Officer before the specific due date occurs, must describe circumstances causing the delay, and must state when each task of the project will be completed.
3. The remaining penalty amount of \$57,500 shall be permanently suspended if the Executive Officer determines that the Discharger completes the project and provides the Regional Water Board with the scheduled progress reports toward completion of the project and the final report due on October 31, 2007. If the Discharger fails to adequately complete the approved project or fails to complete any of the above-described tasks by the corresponding due date, the Executive Officer may require immediate payment of the suspended liability to the CAA.

It is the Discharger's responsibility to complete the project, regardless of any agreements between the Discharger and any third party contracted to implement the project. Therefore, The Discharger may want to consider a third party performance bond or the inclusion of a penalty clause in their contract. The final report shall contain documentation of expenditures.

If the final total cost of the successfully completed project is less than the amount suspended for completion of the project, the Discharger must remit the difference to the CAA.

Certification

I, Catherine E. Kuhlman, Executive Officer,  
do hereby certify that the foregoing is a full, true,  
and correct copy of an Order adopted by the  
California Regional Water Quality Control Board, North Coast Region,  
on April 26, 2007

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Catherine E. Kuhlman  
Executive Officer